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January 5, 1995

HAND DELIVERED

William F. Caton, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: CC Dkt. No. 94-1

Dear Mr. Caton:

This letter is to notify you, pursuant to the Commission's ex parte Rules, that on January 4, 1995, representatives of an ad hoc coalition of education interests met today with Chairman Hundt and Karen Brinkman, Karen Kornblum and Robert Peck of the FCC's staff to discuss the regulatory proposal made in their filings in the above proceeding. The following people participated in the meeting on behalf of the education coalition:

Carol Henderson and Betty Turlock, American Library
Association
Frank Withrow, Council of Chief State School Officers
Tom Koerner, National Association of Secondary
School Principals
Michael Resnick and Michelle Richards, National
School Boards Association
Bob Chase, John Yrchik and Carolyn Breedlove,
National Education Association
Maurice Travillian, Chief Officers of State Libraries
Judy Gray, Issue Dynamics, Inc.
Henry Rivera, Ginsburg, Feldman and Bress

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William F. Caton, Secretary
January 5, 1995
Page two

The attached document was presented to the Commission attendees. The meeting ended too late in the day to file this letter on January 4, 1995.

Sincerely,

A handwritten signature in cursive script, appearing to read "Henry M. Rivera".

Henry M. Rivera

cc: Chairman Reed Hundt
Karen Brinkman, Esq.
Mr. Robert Peck
Ms. Karen Kornblum

Enclosure

INDEX OF "EDUCATION/LIBRARY PROPOSAL TO FCC" PACKET

- 1. July 13, 1994 Press Release - "Coalition Proposes Plan To FCC To Connect Schools And Libraries To The National Information Infrastructure".**
- 2. List of Filing Participants and Organizations/Individuals Who Have Sent Endorsements To The FCC.**
- 3. Fact Sheet on Consumer Productivity Dividend.**
- 4. Nov. 17, 1994 Press Release - "National Education Leaders Ask FCC For Access To Technology Now".**
- 5. Open Letter to Chairman Reed Hundt and Vice President Gore, November 17, 1994.**
- 6. Legal Interpretation of Appropriateness of Filing.**
- 7. Article from Washington Telecom Week regarding CFA/ICA opposition, December 9, 1994.**
- 8. Education/Library Alliance rebuttal letter to CFA/ICA, December 19, 1994.**
- 9. Article from Communications Daily regarding Education/ Library response to CFA/ICA letter.**
- 10. Chart of Recent Trends In Prices and Shareholder Returns In Local and Long Distance Telecommunications Markets**
- 11. Article from Internet, "AT&T Raises Rates On Domestic Calls" by Washington Telecom Week, Dec. 5, 1994.**
- 12. Article from Business Week "All Those Long-Distance Discounts Are Sweet, But..", September 19, 1994.**
- 13. Article from Education Daily, "NEA, Chiefs Eye Phone Profits To Fund School Networks", December 9, 1994.**
- 14. Article "Connections Mean A Lot For Schools" from The National Journal, December 3, 1994.**
- 15. Two articles from Communications Daily on proposal, November 22, 1994 and December 5, 1994.**
- 16. "How To" Send A Letter Of Endorsement To The FCC.**
- 17. Endorsement letter from Rep. William D. Ford (Committee on Education and Labor), July 27, 1994.**
- 18. Endorsement letter from Rep. Major R. Owens, September 1, 1994.**
- 19. Endorsement letter from Paul D. Houston (AASA), July 26, 1994.**
- 20. Endorsement letter from Sally McConnell (NAESP), August 9, 1994.**
- 21. Endorsement letter from Anne Billeter (Oregon Library Association), September 28, 1994.**
- 22. Endorsement letter from Wally Beyer (REA), October 13, 1994.**
- 23. Endorsement letter from Maurice Travillian (COSLA), October 31, 1994.**
- 24. Endorsement letter from Brenda L. Welburn (NASBE), November 19, 1994.**
- 25. The actual filing: Reply Comments of ALA, CCSSO, NASSP, NEA, and NSBA before FCC, June 29, 1994.**



FOR IMMEDIATE RELEASE:

July 13, 1994

CONTACT:

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Frank Withrow, Council of Chief State School Officers
202-336-7003
Carolyn Breedlove, National Education Association
202-822-7310
Tim Dyer, National Association of Secondary School Principals
703-860-0200
Jay Butler, National School Board Association
703-838-6225

COALITION PROPOSES PLAN TO FCC TO CONNECT SCHOOLS AND LIBRARIES TO THE NATIONAL INFORMATION INFRASTRUCTURE

Plan Could Make Available \$300 Million a Year for Wiring and Connections

WASHINGTON, D.C. (JULY 13, 1994) In a move that could have a dramatic impact on the speed with which the nation's schools and libraries are connected to the National Information Infrastructure, an alliance of education and library groups presented the Federal Communications Commission (FCC) with an innovative plan that uses regulatory policy to benefit the public without raising prices.

The innovative proposal was submitted to the FCC as part of a "price cap" proceeding to review how best to set the rates charged by local telephone companies for long distance companies to have access to their networks. Currently, a complex formula requires an annual rate adjustment that includes something known as the "Consumer Productivity Dividend (CPD)."

However, according to the Coalition filing, "the record is clear that this benefit has not materialized for most, if any, consumers. Residential and small business long distance rates, in fact, have been increasing the past two years according to the FCC's own analysis. At best, the 'dividend' has disappeared down a regulatory black hole, leaving the vast majority of consumers without any noticeable benefit."

- more -

National Association
of Secondary School Principals
1904 Association Drive
Reston, Virginia 22091-1537

National School Boards
Association
1680 Duke Street
Alexandria, Virginia
22314-3493

National Education Association
1201 16th St., N.W.
Washington, DC 20036-3290

Council of Chief
State School Officers
One Massachusetts Avenue,
N.W.
Suite 700
Washington, D.C. 20001-1431

American Library Association
110 Maryland Avenue, N.E.
Washington, DC 20002-5675

The Coalition urged the FCC to redirect the CPD into a program to pay for investments made by local telephone companies in educational and library infrastructure in their territories. "The system would work as a significant incentive for (local telephone companies) to meet the urgent universal service needs of education and libraries to be effective users of the information superhighway in the future," according to the filing.

If this proposal is adopted, up to \$300 million a year could be made available, every year, for connecting schools and libraries. "This may sound like a lot of money," said Keith Geiger, President of the National Education Association, a member of the Coalition, "but it is only a small part of what is needed to bring every school, classroom and library into the information age."

Arthur Curley, President of the American Library Association, noted that "this plan will help make sure that the public is the real beneficiary of this dividend. As libraries are wired and begin to offer new services, millions of people will be able to access new and emerging services through their local libraries."

Tim Dyer, Director of the National Association of Secondary School Principals, explained that "this will jump-start giving kids a window to the world, regardless of where they live. They shouldn't have to wait for the opportunities that advanced technologies offer."

Gordon Ambach, Executive Director of the Council of Chief State School Officers, stated, "This coalition filing can be a beginning step in realizing the objective of making available the every day modern communications tools of the workplace in each and every classroom for use by all teachers and students."

Boyd Boehlje, President of the National School Boards Association, said, "with this plan, the FCC has a concrete, workable opportunity to help realize the Clinton Administration and NSBA goal of ensuring that every school child in the country has meaningful access to the abundant education resources on the Information Superhighway."

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The alliance of education and library organizations who are participating in the filing are:

- American Library Association
- Council of Chief State School Officers
- National Association of Secondary School Principals
- National Education Association
- National School Boards Association

Endorsements have been received from:

- American Association of School Administrators
- Chief Officers of State Library Agencies
- Congressman Major R. Owens
- Congressman William D. Ford
- Consortium for School Networking
- National Association of Elementary School Principals
- National Association State Boards of Education
- Oregon Library Association
- Rural Electrification Administration

FACT SHEET

Background:

- Since 1991 the rates that local telephone companies charge long distance carriers to complete long distance telephone calls (commonly referred to as access charges) have been regulated under the FCC's price cap plan, instead of rate-of-return regulation.
- Price caps are designed to (1) increase incentive to be efficient, (2) permit flexibility in pricing as competition is introduced and (3) protect ratepayers from risks of competition.
- Under price caps, access rates have decreased, profits on price caps to local companies have gone down, and long distance rates have remained stable.

Proposal:

- Part of the price cap formula is an "extra" element called the "consumer productivity dividend" or "CPD." This was to off-set uncertainty as to proper rate levels and to encourage greater efficiency on the part of local telephone companies.
- The CPD is one-half of one percent of the access revenues, and is subtracted each year from the rates that can be charged by the local telephone companies for access to the network.
- In a plan to better direct the CPD to consumer and public interest purposes, we are proposing that this dividend be used to incent the connection of schools and libraries to the NII.
- Historically, this amounts to about \$300 million a year. Under the proposal, local phone companies would develop plans to wire the most needy schools and libraries first, and then the rest, and charge the cost of these services to the CPD.



FOR IMMEDIATE RELEASE:

Embargoed until Nov.17,1994 10:AM
November 15, 1994

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NATIONAL EDUCATION LEADERS ASK FCC FOR ACCESS TO TECHNOLOGY NOW

Innovative Proposal Offers \$300 Million Connection Solution

WASHINGTON, D.C. -- An alliance of five national education groups today launched a coast-to-coast campaign to help the federal government provide incentives to link the nation's classrooms and libraries to the National Information Infrastructure immediately.

At a news conference in Washington, leaders of the American Library Association, Council of Chief State School Officers, the National Association of Secondary School Principals, the National Education Association and the National School Boards Association released an open letter to Vice President Al Gore and to Federal Communications Commission Chairman Reed Hundt. The letter expresses the alliance's growing sense of urgency and asks the FCC to revise its price cap plan as a means of financing the development of the NII.

"The voice of education must be heard on this issue," said Keith Geiger, president of the National Education Association. "Funding proposals or credible plans to connect schools and libraries to the NII do not exist. A generation of learners will be short changed if we depend on the status quo." Geiger added that under the alliance's proposal, \$300 million could be generated each year, every year to link schools and libraries without raising prices or taxes.

-more-

The alliance presented its plan to the FCC earlier this year after the Commission asked for comments on whether the current rate structure local telephone companies use to provide long distance companies access to their networks could be redirected to schools and libraries seeking access to the NII.

Currently, the formula requires annual rate adjustments that include a "Consumer Productivity Dividend" (CPD). The alliance maintains those dividends have not been going to consumers. In its filing at the FCC, the alliance says "...residential and small business long distance rates, in fact, have been increasing the past two years, according to the FCC's own analysis. At best, the 'dividend' has disappeared down a regulatory black hole, leaving the vast majority of consumers without any noticeable benefit."

The solution, according to the alliance, is simple: The FCC should dedicate the CPD funds to ensure that local telephone companies are given incentives to link schools and libraries as the information superhighway is built through the nation's neighborhoods.

The estimated cost of connecting and estimated 84 thousand public schools ranges from slightly over \$2 million for basic access to approximately \$112 billion for access to high speed, advanced networks.

"The first hookup is always the hardest to get," said Arthur Curley, president of the American Library Association. "However, our plan to establish this missing link indeed, is an important, vital first step. Library users and workers realize the incredible potential that connectivity to the Internet and other on-line networks bring. "We want to make sure these services don't bypass our facilities, and we urge the FCC to act on our proposal now so that we can realize this important goal."

"Communications technology in the schools and libraries is an absolute must. It will open up new doors of educational opportunity and ensure that we, as a nation, are ready to succeed in an increasingly technological marketplace," said Thomas A. Shannon, Executive Director, National Schools Boards Association.

####



November 17, 1994

Vice President Albert Gore
Office of the Vice President
Old Executive Office Building
Washington, DC 20501

The Honorable Reed Hundt, Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

Dear Vice President Gore and Chairman Hundt:

In the last several years, telecommunications policy making in America has been dominated by large industry interests attempting to work out a new framework for competition within the telecommunications industry. Although the American public rates learning as the most important potential use of the emerging national information infrastructure, schools and libraries, two of the most critical public conduits for information, have largely been bypassed in the telecommunications debate.

The groups assembled in this coalition feel strongly that the voice of education and lifelong learning must be heard on this issue. To do otherwise would be to risk our national future and to compromise the very conditions of our democracy. If our citizenry is segregated into those who can access and use information and those who don't have the tools or knowledge to do so, where is equality of opportunity? Where is the possibility for effective political discourse?

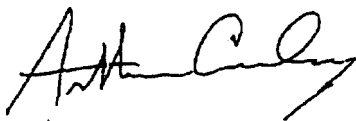
We recognize and applaud the Administration for the support it has given to the school and library role on the information superhighway. In January of this year, Vice President Gore, you told industry leaders, "We cannot tolerate--nor in the long run can this nation afford--a society in which some children become fully educated and others do not; in which some adults have access to training and lifetime education and others do not." We agree. This complements your own statements about the importance of connecting schools and libraries to the NII, Chairman Hundt.

Actual funding proposals or even credible plans to connect schools and libraries to the NII, however, do not exist. There is no plan in existence or even under development that would come remotely close to providing the billions of dollars that such an effort is likely to cost. The coalition encourages the FCC to act on our proposal to use the consumer productivity dividend to provide telecommunications connections for schools and libraries. Such an action would generate approximately \$300 million per year for this purpose. It would require no additional funds or taxes. And, it would be a credible beginning for the creation of a viable market for telecommunications within schools and libraries.


We know the enormity of the task will require additional funding, and this is only one tool to be employed to make the NII a reality for all Americans through libraries and schools. We promise to work with the Administration, with Congress, and with industry to develop other funding mechanisms to create an information-rich education and library system. This is only the first step in what we see as a long-term effort to marshal our country's vast resources in support of our citizens. We and future generations will profit abundantly from it.

\Attachment

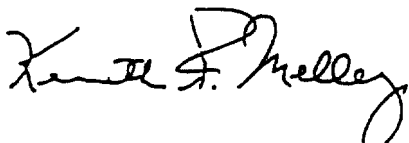
Sincerely,



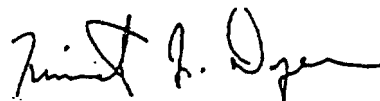
Arthur Curley
President
American Library Association



Gordon M. Ambach
Executive Director
Council of Chief State
School Officers



Kenneth F. Melley
Assistant Executive Director
National Education Association



Timothy J. Dyer
Executive Director
National Association of
Secondary School Principals



Thomas A. Shannon
Executive Director
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DAVID G. BRESS (1908-1976)

William F. Caton, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

Re: CC Dkt. No. 94-1 (Ex Parte Filing)

Dear Mr. Caton:

This letter, on behalf of the education coalition, answers two criticisms against the coalition's proposal that the FCC modify its existing "consumer productivity dividend" ("CPD") requirement in order to dramatically increase telecommunications infrastructure investment in the nation's schools and libraries.^{1/} Under the Commission's existing price cap rules, local telephone companies must provide a CPD to interstate carriers by pricing the access services they sell to these carriers 0.5 percent below the maximum price that otherwise would be permissible. The agency requires a modest price subsidy to interstate carriers on the theory that they might pass the benefits of the subsidy to their customers by lowering the price they charge for interstate communications ser-

^{1/} The education coalition is composed of The American Library Association, The Council of Chief State School Officers, The National Association of Secondary School Principals, the National Education Association, and the National School Boards Association. The coalition made its proposal to the FCC in written comments filed June 29, 1994 in response to the agency's request for suggestions on how to improve existing price cap rules for local telephone companies. See Notice of Prop. Rulemaking in CC Dkt. No. 94-1, 9 FCC Rcd. 1687 (1994). The Computer and Communications Industry Association made a similar proposal to the FCC in its written comments.

William F. Caton
November 21, 1994
Page 2

vice.^{2/} Importantly, the FCC did not require interstate carriers to pass through to their customers the benefits of this subsidy. Nor did the agency require that any voluntary pass-through go to any particular class of customers. And the agency did not establish any mechanism by which to determine the ultimate beneficiaries of this subsidy.

In comments filed June 29, 1994 with the FCC, the education coalition proposed a specific way in which the agency could modify its CPD requirement in order to ensure that consumers actually benefit from the CPD. More specifically, the coalition recommended that the Commission give each local telephone company a choice. The company either could continue to give interstate carriers a 0.5 percent subsidy in the price they pay for access service or it could price this service at a level which does not contain this subsidy and instead earmark for school infrastructure modernization an amount from access service revenues equal to the CPD amount. Under the coalition's plan, schools and libraries served by participating local telephone companies could pay for infrastructure modernization by drawing from this CPD account. The coalition asked that the FCC open a further rulemaking to develop implementation details.

While there has been almost no opposition to the coalition's proposal in written comments to the FCC, one recent press report quotes an unidentified "consumer advocate" as contending that the coalition's proposal constitutes an effort to convince the FCC to impose a "tax". Elsewhere, it has been asserted that the FCC does not have jurisdiction under the Communications Act to adopt this plan. Both arguments are frivolous as shown below.

I. The Coalition's Proposal Does Not Constitute a "Tax"

Adoption of the coalition's proposal would not put the FCC in the position of levying a "tax". First, the coalition proposal does not constitute a "tax" on interstate carriers. A "tax" is an assessment. The coalition has not proposed that the Commission levy an assessment on interstate carriers but instead that it eliminate a modest subsidy that the present CPD provides them.

^{2/} See Policy and Rules Concerning Rates for Dominant Carriers, 5 FCC Rcd. 6786, 6796 (1990) (adopting existing CPD mechanism and explaining rationale for this mechanism).

William F. Caton
November 21, 1994
Page 3

Nor does the coalition's proposal constitute a tax on local telephone companies. Voluntary payments do not constitute a "tax."^{2/} As indicated above, the coalition has asked the FCC to permit, but not to require, each local telephone company to decide whether or not to participate in the plan.

The coalition's proposal also is not a "tax" because its primary purpose is to accomplish a communications regulatory objective rather than to raise revenue. Courts have held that a regulation is a tax only when its primary purpose is to raise revenue.^{3/}

II. The FCC Has Clear Authority Under the Communications Act to Adopt the Coalition's Plan

The claim that the FCC does not have jurisdiction under the Communications Act to adopt the coalition's proposal is equally ridiculous. By its express terms, the Communications Act gives the Commission jurisdiction to adopt regulatory policies which ensure that "all the people of the United States . . . [have telecommunications service provided by] adequate facilities . . . [and delivered at] reasonable charges"^{4/} In Republican Administrations, the FCC has taken numerous steps to require telecommunications providers to subsidize specific customers in order to carry out this statutory obligation. For example, in 1987 the FCC adopted rules requiring communications service providers to pay up to half of poor peoples' local telephone installation and connection charges.^{5/} In 1986, the agency adopted rules requiring communications carriers to pay all or part of the subscriber line charge for poor people living in those states which provide a

^{2/} City of Vanceburg v. FERC, 571 F.2d 630 (D.C. Cir. 1977), cert. denied, 439 U.S. 818 (1978).

^{3/} San Juan Cellular Telep. v. Pub. Service Commission, 967 F.2d 683 (1st Cir. 1992); Rural Telephone Coalition v. FCC, 838 F.2d 1307, 1314 (D.C. Cir. 1988); Brock v. Washington Metro. Area Transit Auth., 796 F.2d 481, 489 (D.C. Cir. 1986), cert. denied, 481 U.S. 1013 (1987); Tindal v. Block, 717 F.2d 874, 887 (4th Cir. 1983), cert. denied, 465 U.S. 1080 (1984).

^{4/} 47 U.S.C. §§ 151, 154(i).

^{5/} Link Up America, 2 FCC Rcd. 2953, 2955-59 (1987).

William F. Caton
November 21, 1994
Page 4

matching subsidy.^{7/} In 1984, it required carriers to subsidize the cost of telephone company local loops in areas where the cost of providing telephone service is substantially higher than the national average.^{8/} In 1989, the agency stated that it had jurisdiction under the Communications Act to require that carriers subsidize the cost of providing telephone relay service, a service which facilitates telephone communications by hearing impaired people.^{9/} Commission rules even require subsidized telephone rates for certain businesses. For example, for more than a decade the agency has required local telephone companies to offer subsidized rates to enhanced service providers.^{10/} The coalition's proposal -- by providing a regulatory mechanism to speed deployment of information infrastructure in the nation's schools and libraries -- is merely one more way in which the FCC can meet its statutory obligation to promote universal availability of telecommunications service.^{11/}

^{7/} Lifeline Assistance, 51 Fed. Reg. 1371 (1986), aff'd, 1 FCC Rcd. 431 (1986), modified, 2 FCC Rcd. at 2955-56, further modified, 3 FCC Rcd. 4543, 4552-53 (1988).

^{8/} Amendment of Part 67 Rules, 96 FCC 2d 781 (1984), modified, 50 Fed. Reg. 939 (1985), further modified, 2 FCC Rcd. 2953 (1987).

^{9/} Access to Telecommunications Equipment and Services by the Hearing Impaired and Other Disabled Persons, 4 FCC Rcd. 6214, 6215-16 (1989).

^{10/} Access Charge Recon. Order 97 FCC 2d 682, 715 (1983), aff'd, 6 FCC Rcd. 4524, 4534-35 (1991) (specifying an interstate access charge for enhanced service providers that is steeply discounted from the access charge that all other service providers must pay).

^{11/} In the rulemaking in which the coalition made its proposal, the FCC itself recognized that it had jurisdiction to adopt a regulatory plan along the lines of the coalition's proposal. It did this by explicitly requesting proposals for modifying the existing price cap rules in ways that would speed "development of a ubiquitous, national information infrastructure." 9 FCC Rcd. at 1693.

William F. Caton
November 21, 1994
Page 5

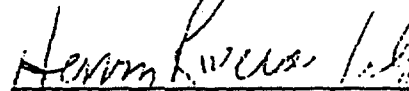
CONCLUSION

Contrary to recent claims, the education coalition's proposal for modifying price cap rules does not constitute a "tax", and the FCC plainly has jurisdiction under the Communications Act to adopt it.

Respectfully submitted

EDUCATION COALITION

By


Henry R. Rivera
Rodney L. Joyce

Its Attorneys

ICA, CFA TEAM ON LETTER TO GORE; CRITICIZE EDUCATION COALITION-BACKED PLAN

The International Communications Association (ICA) and the Consumer Federation of America (CFA) on Wednesday (Dec. 7) fired off a joint letter to Vice President Gore soundly criticizing a school/library telecom infrastructure plan supported by the so-called Education Coalition. The two groups described the coalition-backed plan as "misguided and unfair" and possibly "illegal."

The joint ICA/CFA letter is the second such collaboration of the two powerful organizations in as many weeks. The two groups sent a jointly signed letter to Federal Communications Commission Chairman Reed Hundt last week, spelling out in finite detail their mutually held objections to the Education Coalition's proposal (see related story).

This week, in their joint letter to Gore, ICA and CFA said that the answer to the problem of how best to hook up schools to the information superhighway does not rest in placing what would amount to "a back door tax" on captive ratepayers of the Tier 1 local exchange carriers. "Rather, the answer should come from well-reasoned, publicly debated and comprehensive telecommunications policy," the ICA/CFA letter said.

ICA is the world's largest organization representing major users of telecom equipment and services. CFA is generally recognized as the nation's largest consumer advocacy organization. The complete text of the groups' joint letter to Gore follows:

ICA/CFA Letter to Al Gore

Vice President Albert Gore
Office of the Vice President
Old Executive Office Building
Washington, DC 20501

December 7, 1994

Dear Vice President Gore:

We have become aware of the efforts by some in the education and library community to urge the Federal Communications Commission (FCC) to use funds from the consumer productivity dividend portion of the FCC's price cap plan which governs the interstate access rates for the local monopoly telephone companies, to wire up the classrooms and libraries for connection to America's telecommunications infrastructure. While we share these groups' concerns about the lack of infrastructure in these critical facilities, we believe their plan is, at best, misguided and unfair and, at worst, illegal.

As representatives of captive residential and business ratepayers we share the frustration that the majority of our nation's libraries have not yet entered the telephone age while the country is on the verge of entering the information age. The answer to this problem, however, is not a back-door tax on this nation's telephone consumers, which is in essence what has been

suggested. Rather, the answer should come from well-reasoned, publicly debated and comprehensive telecommunications policy. Your comments made at the commencement of the FCC's PCS auction explores just one option for funding that does not come at the expense of captive telephone ratepayers.

We have filed comments with the FCC which lay out many of the concerns held by captive telephone ratepayers with the plan put forth by the education and library groups. A copy of the filing is attached. Our numerous concerns include:

- Questionable legal authority of the FCC to require such a program.
- Absence of competitive bidding for lowest cost deployment of infrastructure.
- Effect of the plan on the ability of the FCC to implement a responsible price cap regime.
- Access to infrastructure funding for other important public facilities.

The problems with the current price cap regime should be corrected by the FCC during its current review of its price cap rules thereby lowering telephone rates. Captive telephone ratepayers should not be further disadvantaged by being forced to contribute funds that are rightfully theirs to a purpose, regardless

of its merit, for which these funds were not intended or designed.

We hope the administration will look carefully at this important policy issue and avoid harming captive consumers or the competitive market environment that many are working to develop for local telecommunication services. We need a comprehensive public policy to assure universal access and universal service at just and reasonable rates, and the proposal put forth by some groups on the library and education community fails to meet these critical objectives.

We would welcome the opportunity to discuss these issues further with you and your staff.

Very truly yours,
Bradley Stillman
Consumer Federation of America

Brian Moir
International Communications Association

*from Washington Telecom Week
Dec 9, 1994*



December 19, 1994

Vice President Albert Gore
Office of the Vice President
Old Executive Office Building
Washington, DC 20501

Dear Vice President Gore:

The purpose of this letter is to respond to the December 7, 1994, letter you received from the Consumer Federation of America (CFA) and the International Communications Association (ICA) about our filing in the FCC price cap review process.

CFA and ICA share our concern about the lack of infrastructure for schools and libraries but have other concerns about our proposal. We would like to respond specifically to the issues (shown in quotations below) they raised regarding our filing.

1. "Questionable legal authority of the FCC to require such a program."

We have enclosed the legal interpretation that we have filed as Ex Parte Comments with the FCC regarding the appropriateness of our filing. It explains that the FCC has the clear authority under the Communications Act to adopt our plan and also explains that our proposal does not constitute a tax, as CFA and ICA would have you believe.

The FCC clearly has authority to make our suggested pro-consumer and pro-education change in the access prices mechanism. School and library participation in the communications infrastructure have been widely identified as being a public policy objective several times by the Congress, by the FCC, and by the Clinton Administration.

The FCC has taken actions based on public policy objectives like this in the past. Linkup America and Reach Out America are examples of FCC-sanctioned subsidies to encourage poor residential consumer's participation in the communications infrastructure.

In another example, the FCC determined it was a public policy objective to encourage a commercial segment's participation in information services over the public network. To do this, the FCC approved an Electronic Services Providers (ESP) exemption from subscriber line charges that all others, even residential customers, must pay. We would like to remind CFA and ICA of these precedents and these clear demonstrations of the FCC's authority to act as we request.

2. "Absence of competitive bidding for lowest cost deployment of infrastructure."

We will address this specifically in the Ex Parte Comments that we will be filing with the FCC about a second proceeding that would be needed to work out the details of how our plan would work.

More important, however, is the point about funding. Fair pricing is important, but it is lack of funding (not competitive bidding) that has kept 96% of classrooms and 80% of libraries off the NII. We cannot stress this point enough, that lack of funding, not lack of competitive bidding, is the deterrent to school and library participation in the NII. Please do not be deceived by the competitive bidding red herring.

Fair prices are assured by tariffing processes at both state and the Federal commissions on telecommunications services for which there are no or few competitive alternatives. Some of our schools and libraries are located in areas where there are no viable competitive alternatives to the public telephone network. In instances where there are competitive alternatives, competitive bidding can, just like tariffed prices, approximate fair prices. On balance, however, competitive bidding is no panacea despite what CFA would like to suggest.

We recognized early in our development of our plan that safeguards are important when making funding available for schools and libraries. We have given this a great deal of thought and will present recommendations to the FCC which can institute such safeguards.

3. "Effect of the plan on the ability of the FCC to implement a responsible price cap regime."

We are surprised and find it ironic that CFA opposes funds designated as the "Consumer Productivity Dividend" being directed to benefit school children, library patrons, and local taxpayers, but has been silent over the last four years while the interexchange carriers have received those same funds but evidently not passed them through to the "consumers."

Under our plan, the local taxpayers, children, and library patrons will derive far more public interest use of the funds than the interexchange carriers have over the last four years. We are convinced this is a responsible way to assure the general public derives the benefits the FCC originally intended. We carefully checked interexchange prices before reaching this conclusion, and we would encourage CFA to do the same. It appears that long distance prices charged residential consumers by the interexchange carriers have been going up, despite the prices charged them by the local exchange carriers going down. Clearly the Price Cap from local carriers prices gave interexchange carriers an opportunity to lower prices, but ordinary residential consumers have not seen any such benefit -- the interexchange carriers do not pass it along to them. Our plan does not rely on a voluntary behavior change by the interexchange carriers.

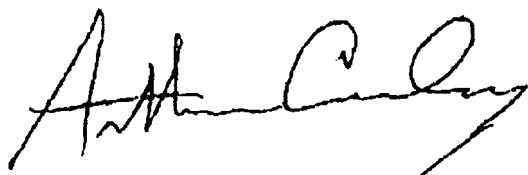
4. "Access to infrastructure funding for other important public facilities."

While there are many institutions whose participation in the NII may be an important public objective, there seems to be public consensus about few of them. Education is one of those few -- both for the nation's

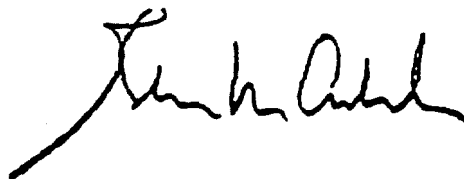
children and for those who work at refurbishing their job skills in lifelong learning. Education has been a top priority on the NII. This has been clear from statements on telecommunications priorities made by the FCC, the Clinton Administration, and the Congress. We agree with that priority and are using legitimate, even if creative, ways to meet those objectives. As a pragmatic matter, we believe that half a loaf is better than none. To that end, we believe that acting now, and in pursuit of a top priority public objective, is wiser than awaiting the unlikely condition that all public policy objectives can be fulfilled simultaneously. We cannot afford to wait.

We believe that our proposal is a viable approach and that it can help insure equitable access to advanced telecommunications technologies and the enormous resources of the NII for students in classrooms and library patrons. Thank you for your consideration of our comments.

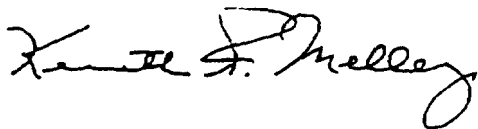
Sincerely,



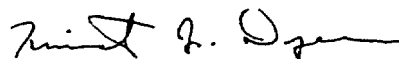
Arthur Curley
President American Library Association



Gordon M. Ambach
Executive Director
Council of Chief State
School Officers



Kenneth F. Melley
Assistant Executive Director
National Education Association



Timothy J. Dyer
Executive Director
National Association of
Secondary School Principals



Thomas A. Shannon
Executive Director
National Schools Boards Association

Enclosure

cc: FCC Chairman Reed Hundt

cally oriented documentaries "overwhelmingly have supported President Clinton and his agenda." Meanwhile, People for the American Way has launched direct mail campaign to save public broadcasting. Also jumping on anti-Gingrich bandwagon is Independent TV Service (ITVS), which said: "No one, producer, administrator or audience member, after all our years of hard work, can afford to stand idly by and witness the potential erosion" of public broadcasting." However, it said, new Congress will do its utmost to pare down federal funding by weeding out public broadcasting entities, "like it or not." ITVS said it favored launching "extensive informational outreach campaign" to educate incoming lawmakers to fact that PTV, as "difficult and unwieldy" as it may be at times, "has never been more vital and essential" than it is today.

TELEPHONY

FCC broadband PCS auction goes on 2-week vacation starting Thurs., will resume Jan. 4. High bid totals have been increasing in \$100,000 increments this week, totaling \$1.4 billion in round 17 Tues., \$1.31 billion in round 16 Mon. N.Y.C. remained highest-priced market by far with WirelessCo bidding \$221 million for only license available there. Next highest market is San Francisco, where 2 licenses are available. Craig McCaw bid \$94.8 million for one, Pacific Telesis \$87.5 million for other. Auction began Dec. 5.

FCC denied GTE request for extension of waiver that had permitted it to charge premium access rates in areas that use nonpremium switch technology. Waiver, granted in 1993 and expiring at end of this year, allowed GTE to charge premium rates in 36 central offices that don't have electronic switches capable of offering equal access. Such step-by-step or electromechanical switches provide equal access through various alternative technologies but produce more postdial delay. GTE asked for waiver extension until end of 1997 for 10 switches in Ia. and until end of 1998 for 9 in Ind. FCC Common Carrier Bureau said in Dec. 16 order that "it is not reasonable for GTE to continue to charge premium rates for less-than-premium switched access service for a prolonged period of time." Commission said GTE can continue to charge current rates for another month while FCC reviews new rates.

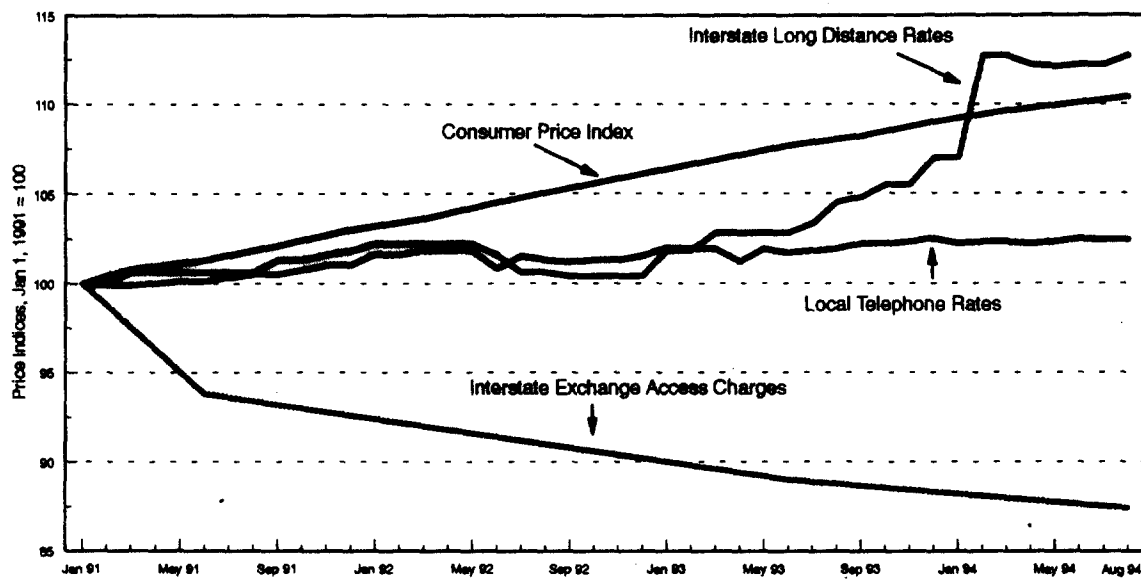
AT&T tariff introducing 500 service went into effect Dec. 18 after FCC denied MCI petition to reject it. MCI had argued that because tariff involves new service, AT&T had to give longer notice and file cost support. AT&T later submitted cost support, and FCC decided no investigation was needed. Meanwhile, MCI sought rejection of 500 access tariffs submitted by Ameritech, Pacific Bell, Southwestern Bell. MCI said Southwestern's overhead loading factors are too high, Ameritech's NXX activation and deactivation rates are higher than those of other LECs and Pacific didn't provide sufficient cost support.

In never-ending battle of letters, coalition of educators and librarians sent letter to Vice President Gore Mon. defending their plan to use price cap-related funds to connect schools and libraries to information infrastructure. Letter was in response to earlier one sent by Consumer Federation of America and International Communications Assn. asking Administration not to support coalition plan. Group said: "We are surprised and find it ironic that CFA opposes funds designated as the 'Consumer Productivity Dividend' being directed to benefit school children, library patrons and local taxpayers but has been silent over the last 4 years while the interexchange carriers have received those same funds but evidently not passed them through to the consumers."

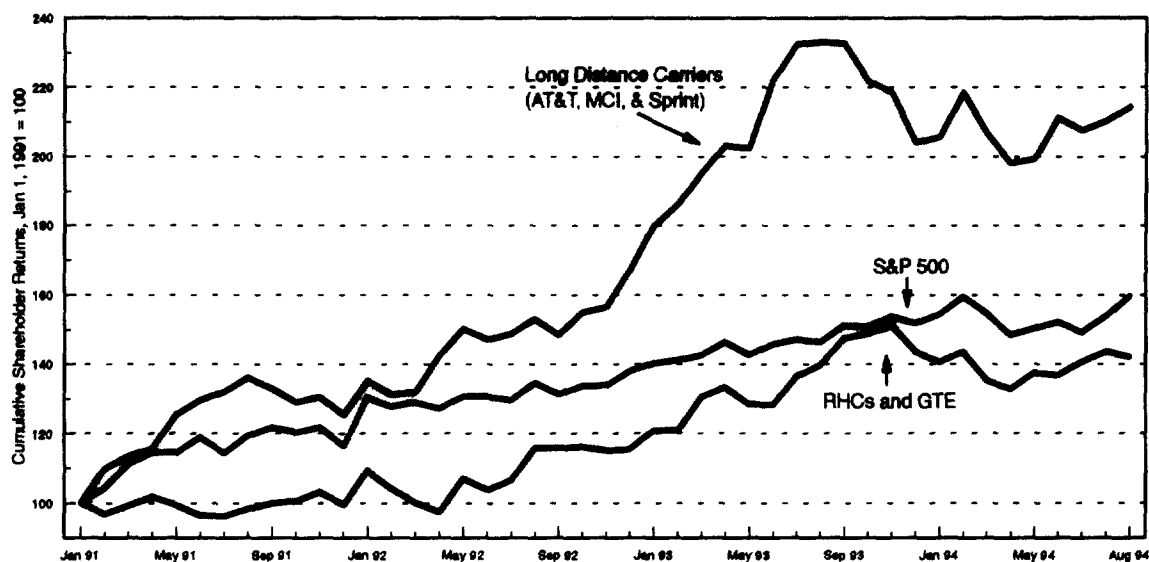
Southwestern Bell (SWB) 4-year incentive regulation experiment that began in 1990 has resulted in "benefits to ratepayers as well as missed opportunities for improvements," Tex. PUC staff report concluded: "Most of the increased returns have been paid to the corporate parent rather than being reinvested in telephone operations in Texas." Report said that SWB "has complied with the specific infrastructure investments required by the plan, but its increased returns have apparently not been sufficient incentive to encourage it to invest in telephone operations beyond that level." Plan called for 4-year freeze on SWB's basic rates to reduce installation and Touch-Tone charges, upgrade network, eliminate mileage charges and multiple-party service, extend metro service to 32 communities, start discount program for low-income subscribers. In return, PUC granted rate of return of 10.49-12.06% and allowed SWB to recover 50% of earnings between 12.06% and 14.5%. PUC said SWB gained efficiency but "shortcomings in the way the sharing levels were measured by overall rate of return instead of return on equity meant that ratepayers have not benefited fully." Staff report covered first 3 years of plan. Results in 1994 won't be available until March, PUC said.

Recent Trends In Prices And Shareholder Returns In Local And Long Distance Telecommunications Markets

Despite reductions in exchange access charges that have occurred since the LECs' price cap plan was implemented in 1991, the interexchange carriers (IXCs) have raised interstate long distance rates sharply over the past 2 years. . .



. . . shifting billions of dollars from local and long distance customers to IXC shareholders.



Note: Cumulative shareholder returns are based on market weighted monthly averages of total shareholder returns for individual companies.

Sources: Bureau of Labor Statistics, FCC, Compustat

From the Internet

Date: 5 Dec 94 11:01:00 EST
From: "wtn" <wtn@wtn.com@WINS@BISVG1>
Subject: AT&T Raises Rates
To: <wtn@wtn.com@WINS@BISVG1>
WASHINGTON TELECOM NEWSWIRE ...

December 5, 1994
AT&T RAISES RATES ON DOMESTIC CALLS

AT&T announced a rate increase today that will add an average of 35 cents to its customers domestic, direct-dialed long distance calls effective December 16.

The affect of the 3.9 percent increase will be a total of about \$274 million, the long distance company said. The increase is dependent on tariff effectiveness.

Most mileage bands and time periods will be affected, in addition to some optional calling plans, AT&T said.

Last week, the company said it also filed to increase the service charge for international operator-handled calls, as well as per-minute prices for operator handled calls made to certain countries, also effective Dec. 16.

Services charges for all AT&T international operator-handled calls will increase from \$4 to \$4.50. The per-minute price for AT&T international operator-handled calls to 19 countries will increase an average of 7.7 percent. The new prices are expected to increase the company's annual revenue by about \$15 million.

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(Transmitted at 11 a.m. ET)

590-94

For more information, contact Washington Telecom Newswire at (703) 264-9730

Chris Valmassei
Washington Telecom Newswire | Internet: wtn@wtn.com

Information Processing

TELECOMMUNICATIONS

ALL THOSE LONG-DISTANCE DISCOUNTS ARE SWEET, BUT . . .

Hikes in basic rates are offsetting special deals and sending phone company revenues ever higher



INTERSTATE RATES, ALTHOUGH SHARPLY LOWER SINCE THE AT&T BREAKUP IN 1984, HAVE BEEN RISING OVER THE PAST FOUR YEARS

If you own a telephone, you probably get a lot of pitches beseeching you to switch from one deeply discounted long-distance service to another. With the intense competition among MCI's Friends & Family, AT&T's True USA Savings, and Sprint's The Most, long-distance telephone customers must be getting some great deals, right?

Not necessarily. Data compiled by the Bureau of Labor Statistics show that basic interstate long-distance rates, though down precipitously since the breakup of the Bell System in 1984, have been rising for the past four years—by nearly 10% from January, 1990, to July, 1994. The hikes offset the discount plans and, along with rising calling volume, helped the long-distance industry post a healthy 8%-plus revenue gain in the second quarter. That compares with a year-over-year gain of slightly less than 5% in 1993's second quarter. As a recent study by market researcher Yankee Group Inc. notes, carriers "seem to be funding the marketing wars lately by slowly increasing basic . . . rates."

The proof is in the Federal Communi-

cations Commission filings. In the past year, AT&T, which carries about 60% of the nation's long-distance traffic, has raised the per-minute charge for basic calls three times—by 4% in August, 1993, 6.3% on Jan. 1, and 4% on June 1. And the increases keep coming: On Aug. 29, AT&T filed a request with the FCC to raise domestic calling-card rates by an average 2.1% and international services by 1%. A month earlier, it had requested rate hikes on 800 lines and international calling-card calls.

LOCKSTEP. So what, you say—I'll just switch to MCI or Sprint. It won't save you much. MCI Communications Corp. and Sprint Corp. have raised their basic rates virtually in lockstep with AT&T. With some 85% of the long-distance market among them, the big three are unlikely to set off a genuine price war.

The three dispute the

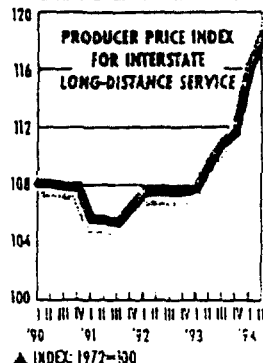
BLS findings, arguing that extensive use of discounts that range from 10% to 35% makes the basic rate irrelevant—like a car's sticker price. "Nobody, absolutely nobody, pays sticker price," asserts MCI President Gerald H. Taylor.

That's not exactly accurate. While none of the long-distance carriers reveals how many subscribers are on discount plans, Yankee Group estimates that some 11 million are enrolled in MCI's

Friends & Family, 6.5 million in AT&T's True USA Savings program, and 3 million in Sprint's The Most. Since there are more than 140 million phone lines in the U.S., it stands to reason that millions of callers, at the least, are paying sticker price.

The carriers also brandish a set of statistics showing that, overall, rates continue to decline. The true measure of the market, they say, is the

RINGING UP HIGHER RATES



average price per minute paid for long-distance service. That price, which factors in all discount plans, has declined every year for the past decade—by 41.1% in actual dollars and 63.3% when adjusted for inflation, according to AT&T.

But the average price per minute is more than just the money shelled out by consumers. It also includes the deeply discounted rates paid by corporations, which negotiate their own deals with the carriers. Still, even with steep corporate price cuts added in, the decline in the average rate is slowing. The measure fell 2.6% during the second quarter vs. a 4% drop a year earlier.

Even AT&T doesn't deny that tariff hikes are offsetting the cost of promotions. In its 1993 annual report, AT&T told of a \$750 million rate increase filed last December and a new bargain offering for high-volume callers. "We expect the effects on revenues of this discount plan and those 1994 price increases to offset each other," it said. Certainly the second-tier long-distance companies are aware of this balancing act. "The promotions may make it look like there is price competition in residential, but the fact is that the base rates have created profit margins that are much better than you get from businesses," says H. Brian Thompson, chairman of long-distance company LCI International Inc.

PROPAGANDA MILL. One of the reasons profits are better is that costs are lower. The access fees that interstate carriers pay to use local lines, which account for about 40% of their costs, have been falling steadily for years. At one time, those savings were automatically passed on to consumers. But since 1989, when the FCC allowed AT&T more flexibility in setting rates, one no longer necessarily follows the other. The change helped increase operating earnings for the second quarter by 12.4% for AT&T, 20.8% for MCI, and 33.3% for Sprint.

All of this is grist for both sides of the propaganda mill in Washington. As Congress debates an overhaul of telecommunications regulations, the local phone companies argue that they should be given entry to the long-distance market, contending there is no true competition there now. But the long-distance carriers say they are operating in one of the most competitive markets in the world. They do have one unshakable fact on their side: Interstate rates have dropped a lot further in the past 10 years than local tariffs.

So both sides continue to hit members of Congress over the heads with their rate charts. Meanwhile, what's a consumer to do? Well, when they call to enroll you in a discount plan, don't hang up.

By Catherine Arnst in New York

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